

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

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MAY 19 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

In re the Marriage of:)	2 CA-CV 2008-0160
)	DEPARTMENT A
VALERI MARTIN-MACDONALD,)	
)	<u>MEMORANDUM DECISION</u>
Petitioner/Appellee,)	Not for Publication
)	Rule 28, Rules of Civil
and)	Appellate Procedure
)	
STEPHEN W. MACDONALD,)	
)	
Respondent/Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. DO200700900

Honorable Kevin D. White, Judge

AFFIRMED

Thomas M. Larson Law Offices
By Thomas M. Larson

Casa Grande
Attorney for Petitioner/Appellee

Stephen W. MacDonald

Falmouth, MA
In Propria Persona

PELANDER, Chief Judge.

¶1 In this domestic relations case, respondent/appellant Stephen MacDonald, appearing pro se, appeals from the trial court's decree dissolving his marriage to petitioner/appellee, Valeri Martin-MacDonald. He apparently contends the court erred by failing to require full financial disclosure by Valeri, awarding all community property to her, and failing to award him spousal maintenance. Finding no error, we affirm.

Background

¶2 Valeri filed a petition for dissolution in July 2007, after ten and a half years of marriage. A bench trial commenced in May 2008. Stephen appeared pro se. Valeri testified and offered into evidence various exhibits, including spreadsheets of the parties' community assets and debts. Stephen, however, complained that Valeri had not disclosed the parties' joint checking account statements and various credit card bills from the first half of 2007, the six-month period before the petition for dissolution had been filed. The court ordered both parties to disclose, by June 27, 2008, various specified financial documents from 2007 and continued the trial to August 2008.

¶3 On the second day of trial, Valeri produced, and the court admitted, a Federal Express printout and other documents showing Stephen had refused delivery of the financial documents Valeri had been ordered to disclose and had attempted to have Federal Express deliver. She again testified and offered additional exhibits, which the trial court admitted into evidence. Stephen did not present any evidence and waived his right to testify. The court dissolved the marriage and awarded most of the community property and all community debt to Valeri. The court further ordered Valeri's assumption of the debt was in lieu of

spousal maintenance. Stephen was awarded a horse trailer, three horses, four dogs, all guns, a 2002 Ford truck, and bank accounts in his name. This appeal followed.

Discussion

¶4 As a preliminary matter, we address Valeri’s request to strike Stephen’s opening brief because he failed to provide transcripts of the proceedings below and, as Valeri says, his brief “fails to comply with . . . [the] most basic of rules regarding substance and style.” Although Stephen’s brief contains no citations to the record and little supporting authority for his arguments, his brief does contain pages titled, “Statement of the Case,” “Statement of Facts,” and “Issue(s) Presented.” *See* Ariz. R. Civ. App. P. 13(a). Generally, we prefer to decide cases on the merits if possible. *See Clemens v. Clark*, 101 Ariz. 413, 414, 420 P.2d 284, 285 (1966); *Adams v. Valley Nat’l Bank of Ariz.*, 139 Ariz. 340, 342, 678 P.2d 525, 527 (App. 1984). Therefore, although Stephen’s brief falls far short of the Rule 13(a) requirements, we address his issues on their merits. *See Pima County Bd. of Supervisors v. Dow*, 118 Ariz. 364, 364-65, 576 P.2d 1364, 1364-65 (App. 1978).

¶5 Stephen asks us to vacate the decree because the trial court failed to require Valeri to disclose tax returns and “real banking and credit statements” and instead allowed her “to provide her own madeup spreadsheet.”¹ Citing Rule 49, Ariz. R. Fam. Law P.,

¹Stephen attached to his brief a November 2008 statement purportedly from the Department of the Treasury, indicating he and Valeri owed \$14,026.31 in taxes and accrued interest from 2006. He appears to request we consider the parties’ federal tax debt in our review of the proceedings below. But we decline to address the issue and must disregard that document and the other attachments to his brief because they were not presented to, or considered by, the trial court. *See Crook v. Anderson*, 115 Ariz. 402, 403-04, 565 P.2d 908, 909-10 (App. 1977).

Stephen maintains Valeri failed to disclose documents relating to their debt. We review a court's ruling on discovery and disclosure issues for an abuse of discretion. *Soto v. Brinkerhoff*, 183 Ariz. 333, 335, 903 P.2d 641, 643 (App. 1995). We “consider the evidence in the light most favorable to the non-appealing party and will sustain the judgment if any reasonable evidence supports it.” *In re Marriage of Pownall*, 197 Ariz. 577, ¶ 31, 5 P.3d 911, 917-18 (App. 2000). And, because Stephen has failed to provide the trial transcripts, “we assume they would support the court's findings and conclusions.” *Baker v. Baker*, 183 Ariz. 70, 73, 900 P.2d 764, 767 (App. 1995); *see also* Ariz. R. Civ. App. P. 11(b).

¶6 During the relevant time frame, former Rule 49(E)(1) and (2), now Rule 49(F)(1) and (2), required each party to serve the other party with “copies of all monthly or periodic statements and documents . . . showing the balances owing on all mortgages” and “copies of credit card statements and debt statements for all months for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure.” On the first day of trial, when Stephen requested additional disclosure, the trial court granted his request, continued the trial, and ordered both parties to provide various, specified financial documents. But the record reflects that when Valeri attempted to serve Stephen with the materials, he refused to accept them. Thus, having granted Stephen's request and having continued the trial for two months to permit further disclosure, the court certainly did not abuse its discretion. Additionally, Stephen has not established how or why he was prejudiced by any alleged failure to disclose debt inasmuch as the court ordered Valeri to assume all community obligations. Nor has Stephen established that whatever

documents he sought would have altered the court's ruling or somehow benefitted him, particularly when the court's judgment ordered Valeri to pay all the community debt.

¶7 Stephen also apparently challenges the trial court's decree because, under it, "Valeri gets everything." A trial court has broad discretion in equitably distributing the community property between the parties, "and we will not disturb its allocation absent an abuse of discretion." *Boncoskey v. Boncoskey*, 216 Ariz. 448, ¶ 13, 167 P.3d 705, 708 (App. 2007); *see also Barnett v. Jedynek*, 219 Ariz. 550, ¶ 10, 200 P.3d 1047, 1050 (App. 2009). Contrary to his assertion, Stephen did receive some community property: the horse trailer, three horses, four dogs, all guns, a 2002 Ford truck worth approximately \$17,845, and bank accounts in his name. Valeri was awarded the remaining community property worth approximately \$66,000, but also was saddled with "[a]ll the known community obligations of the parties" which, according to the decree, totaled about \$63,000 at the time of dissolution. Additionally, the record does not show that Valeri's testimony at trial was substantively challenged, and absent any transcript of the proceedings below, we presume her testimony supported the trial court's findings. *Baker*, 183 Ariz. at 73, 900 P.2d at 767. Therefore, we have no legal basis to disturb the court's allocation of the parties' assets and debts. *See Boncoskey*, 216 Ariz. 448, ¶ 13, 167 P.3d at 708.

¶8 Finally, Stephen requests we "reinstate spousal support in the amount of \$1,532.00 per month." The record reflects the trial court temporarily ordered Valeri to pay Stephen \$750 per month in spousal maintenance while the divorce was pending. But it allocated "all community debts" to Valeri in lieu of this arrangement. Stephen fails to

adequately argue or provide authority for how the trial court erred by denying him spousal maintenance under A.R.S. § 25-319. *See* Ariz. R. Civ. App. P. 13(a)(6) (argument must contain specific contentions, the reasons supporting them, citations to authority, statutes and parts of record relied on). We therefore decline to address this issue. *See State Farm Mut. Auto. Ins. Co. v. Novak*, 167 Ariz. 363, 370, 807 P.2d 531, 538 (App. 1990). Additionally, we generally review the denial of spousal maintenance for an abuse of discretion, *Gutierrez v. Gutierrez*, 193 Ariz. 343, ¶ 14, 972 P.2d 676, 681 (App. 1998); *Dopadre v. Dopadre*, 156 Ariz. 30, 32, 749 P.2d 939, 941 (App. 1988), and in the absence of a transcript here, we presume the evidence supported the court’s ruling on spousal maintenance. *See Baker*, 183 Ariz. at 73, 900 P.2d at 767.

Disposition

¶9 The decree of dissolution is affirmed.

JOHN PELANDER, Chief Judge

CONCURRING:

JOSEPH W. HOWARD, Presiding Judge

PHILIP G. ESPINOSA, Judge